

**2 VAC 15-20-81.** Class prices for producer's milk, time and method of payment, and butterfat testing.

A. CWT Class Prices.

1. Class I

	July through February	March through June
(1) Eastern Virginia Market	\$8.46/cwt.	\$8.26/cwt.
(2) Southwest Virginia Market	\$7.96/cwt.	\$7.76/cwt.
(3) Western Virginia Market	\$8.16/cwt.	\$7.96/cwt.

The above established Class I prices shall be adjusted automatically in accordance with the following procedure, provided:

- (1) a. The Eastern Market Class I price shall not exceed the average prevailing Class I price of Metropolitan Washington, D.C., and Raleigh, North Carolina, by more than \$0.80 per hundredweight, nor be less than \$0.30 per hundredweight above the average prevailing Class I price of Metropolitan Washington, D.C., and Raleigh, North Carolina;
- b. The Southwest Market Class I price shall not exceed the average prevailing Class I price of Bristol, Virginia, and Charleston, West Virginia, by more than \$0.60 per hundredweight nor be less than \$0.30 per hundredweight above the average prevailing Class I price of Bristol, Virginia, and Charleston, West Virginia; and
- c. The Western Market Class I Price shall not exceed the average prevailing Class I price of Metropolitan Washington, D.C., and Winston Salem, North Carolina, by more than \$0.60 per hundredweight nor be less than \$0.30 per hundredweight above the average prevailing Class I price of Metropolitan Washington, D.C., and Winston Salem, North Carolina.
- (2.) Class I prices shall be increased by an amount determined by multiplying the number of two point brackets that the average bi-monthly composite index exceeds 101.0 by 4.20; and
- (3.) Class I prices shall be decreased by an amount determined by multiplying the number of two point brackets that the average bi-monthly composite index descends below 99.0 by \$.20.
- (4.) The average bi-monthly composite index brackets shall be in accordance with the following schedule:

Average Bi-monthly Composite Index Brackets (Nos. through Nos.) Continued	Amount of Adjustment (Cents) Continued
96.9 - 98.9	- 20
99.0 - 101.0	- 0
101.1 - 103.1	+ 20
103.2 - 105.2	+ 40

105.3 - 107.3	+ 60
107.4 - 109.4	+ 80
109.5 - 111.5	+100
111.6 - 113.6	+120
113.7 - 115.7	+140
115.8 - 117.8	+160
117.9 - 119.9	+180
120.0 - 122.0	+200
122.1 - 124.1	+220
124.2 - 126.2	+240
126.3 - 128.3	+260
128.4 - 130.4	+280
130.5 - 132.5	+300
132.6 - 134.6	+320
134.7 - 136.7	+340
136.8 - 138.8	+360
138.9 - 140.9	+380
141.0 - 143.0	+400
143.1 - 145.1	+420
145.2 - 147.2	+440
147.3 - 149.3	+460
149.4 - 151.4	+480
151.5 - 153.5	+500
153.6 - 155.6	+520
155.7 - 157.7	+540
157.8 - 159.8	+560
159.9 - 161.9	+580
162.0 - 164.0	+600
164.1 - 166.1	+620
166.2 - 168.2	+640
168.3 - 170.3	+660
170.4 - 172.4	+680
172.5 - 174.5	+700
174.6 - 176.6	+720
176.7 - 178.7	+740
178.8 - 180.8	+760
180.9 - 182.9	+780
183.0 - 185.0	+800
185.1 - 187.1	+820
187.2 - 189.2	+840
189.3 - 191.3	+860
191.4 - 193.4	+880
193.5 - 195.5	+900
195.6 - 197.6	+920
197.7 - 199.7	+940
199.8 - 201.8	+960
201.9 - 203.9	+980
204.0 - 206.0	+1000
206.1 - 208.1	+1020
208.2 - 210.2	+1040
210.3 - 212.3	+1060
212.4 - 214.4	+1080
214.5 - 216.5	+1100
216.6 - 218.6	+1120
Continued	Continued

(5) A monthly composite index shall be determined by dividing the sum of the index numbers of the six factors shown in subsections (a x 1), (b x 1), (c x 1), (d x 1), (e x

- 1), (f x 2) of this subparagraph by seven. The latest available published monthly data for any of the above six factors shall be used in determining the monthly index number.
- a. The U.S. Index of prices paid, taxes, and farm wage rates as published in "Agricultural Prices" by the U.S.D.A.
  - b. The U.S. Index of prices received as published in "Agricultural Prices" by the U.S.D.A.
  - c. The average price per ton paid by Virginia farmers for 16% dairy feed, as published in "Agricultural Prices" by the U.S.D.A.
  - d. The average cost of the market basket for Richmond-Norfolk-Virginia Beach-Portsmouth, as published in "The Market Basket and Retail Food Prices" by the Virginia Department of Labor and Industry.
  - e. The average weekly earnings of workers in Virginia manufacturing industries, as published in "Trends in Employment Hours and Earnings Virginia and Statistical Metropolitan Areas" by the Virginia Department of Labor and Industry.
  - f. An average of the prevailing Class I prices in Raleigh, North Carolina; Metropolitan Washington, D.C. ; Winston Salem, North Carolina ;Bristol, Virginia; and Charleston, West Virginia.
- (6) The six month average, November 1973 through April 1974, shall equal 100 for each of the above factors for the purpose of determining the monthly index number for each factor.
- (7) The current month's Class I price adjustment, if any, shall be determined by a bi-monthly composite index which shall be a simple average of the monthly composite indices of the second and third preceding months.
- (8) On or before the 23<sup>rd</sup> day of each month the agency shall determine the Class I butterfat, skim and net prices for the following month and announce same to all licensed processing general distributors and on the same date the agency will announce the Class II skim, butterfat and net prices.

Effective May 1, 1995, the following modifications to the indexes will be utilized in determining the monthly composite index used in calculating the Class I price for Virginia State Milk Commission marketing areas pursuant to subdivisions A 1 (1) through A 1 (7) of this section:

The U.S. Index of prices paid, taxes, and farm wage rates as published in "Agricultural Prices" by the U.S.D.A. will be determined by using the monthly movement of the reweighted and reconstructed prices paid index (PPITW) as published by the U.S.D.A. The monthly movement of the new prices paid index (PPITW) will be applied each month to the preceding month's revised index of prices paid, taxes, and farm wage rates using December 1994 as the base month. The U.S. Index of prices received as published in "Agricultural Prices" by the U.S.D.A. will be determined by using the monthly movement of the reweighted and reconstructed prices received index as published by the U.S.D.A. The monthly movement of the new prices received index will be applied each month to the preceding month's revised index of prices received using December 1994 as the base month.

The average price per ton paid by all Virginia farmers for 16% dairy feed as published in "Agricultural Prices" by the U.S.D.A. will be determined by using the monthly movement of the index of prices paid, production items, complete feeds as published by the U.S.D.A. The monthly movement of this index will be applied each month to the preceding month's index of 16% dairy feed, Appalachian using April 1995 as the base month.

The authoritative publisher of the Market Basket for Richmond-Norfolk-Virginia Beach-Portsmouth will be the Virginia Department of Agriculture and Consumer Services. The resultant index numbers derived from the above calculations will be utilized as specified in the cited regulation.

1. Class IA. The price used in computing each distributor's obligation for producer milk (of 3.5% butterfat) allocated to Class IA shall be the Class II skim, butterfat, and net price.
2. Class II. The price per cwt. for all markets shall be the monthly Class II price announced by the Market Administrator of the appropriate Marketing Area.
3. The total value of base deliveries made in accordance with 2 VAC 15-20-50 B 2 shall be discounted in accordance with the following procedure to reflect the cost savings of transporting, storing and handling of producer milk on a uniform daily basis:
  - a. Subtract from each cooperative association's total pounds of base deliveries allocated to Class I sales for each delivery period an amount equal to twice the sum of the differences between the pounds of assigned daily base and the pounds of daily base deliveries which are less than the pounds of assigned daily base for each day during the delivery period.
  - b. The net hundredweight (not less than zero) resulting from the above procedure multiplied by \$0.11 will be the amount of discount for base deliveries during the delivery period.
4. Producers or their agents shall not sell milk or offer milk for sale at prices other than those established.

B. Butterfat testing

Butterfat testing shall be conducted in accordance with the following procedure:

1. General distributors shall determine the average butterfat content of all assigned producer milk delivered by each producer who is not a member of a cooperative association, as defined in 2 VAC 15-20-10 by four or more tests made at approximately equal intervals during each delivery period.
2. All assigned producer milk accompanied by a bill of lading that is delivered by a cooperative association to a licensed distributor and is accepted by the distributor shall be paid for by the distributor at a rate that is determined by the butterfat test specified on the bill of lading accompanying the load of milk.
3. The butterfat content of all assigned cooperative association milk delivered by methods other than specified in subdivision 2 above, of this subsection shall be determined in accordance with procedures specified by the agency, if mutual agreement between the cooperative association and the distributor cannot be reached as to the butterfat content of such deliveries.
4. All sampling and testing shall be conducted by persons licensed by the Virginia Department of Agriculture and Consumer Services. These tests shall be made by

the Babcock Test, or other tests approved by that department and shall, as directed by the approving authority, be subject to check tests made by a licensed tester.

C. Time of payment.

1. On or before the 23rd day of a delivery period general distributors shall make a partial payment to producers or cooperative associations of producers for base deliveries received during the first 15 days of the delivery period. The partial payment shall be not less than an amount determined by multiplying the previous month's Class II skim, butterfat or net price for 3.5% milk by the hundredweight of base deliveries for the first 15 days of the delivery period; provided full and final payment for the preceding delivery period was made in accordance with subdivision 2 of this subsection, otherwise the partial payment shall be not less than an amount determined by multiplying the current Class I skim, butterfat and net price for 3.5% milk by the hundredweight of base deliveries for the first 15 days of the delivery period.
2. On or before the 16<sup>th</sup> day following the close of a delivery period state regulated general distributors shall make full and final payment to producers or cooperative associations of producers for deliveries received during such delivery period pursuant to this chapter. Fully federally regulated general distributors shall make full and final payment to producers or cooperative associations of producers for deliveries received during such delivery period pursuant to the applicable provisions of the order in which they are pooled. Payment shall be made so that it is received by the dates applicable to state order and federal order plants.
3. Certified or registered mail may be required for all U.S. Postal Service deliveries of producer payments made by general distributors pursuant to subdivisions 1 and 2 of this subsection when directed in writing by the agency.
4. The approving authority may, after a hearing, require individual general distributors to make settlement with producers or cooperative associations of producers for deliveries at intervals other than provided in subdivisions 1 and 2 of this subsection.
5. All licensed producers or association of producers supplying base deliveries to processing general distributors located in Norfolk, Portsmouth, Hampton, Newport News or Chesapeake shall be allocated \$0.10 per hundredweight from the total monthly Eastern Market Class I producer payments. This allocation shall be made prorata in accordance with the monthly base deliveries to the processing general distributors located in the aforementioned cities.
5. Before the 15th day of each month the agency shall determine the required monthly equalization payments and give written notice to all affected parties of the amounts payable. The monthly equalization payments shall be made to the Milk Commission Equalization Fund no later than the 25th day of the month subsequent to the end of each delivery period. On or before the last day of each month the agency shall disburse all funds (less a balance necessary to pay all bank charges) paid in during the current month in accordance with subdivision 5 of this subsection.

D. Redistribution of producer losses.

When the approving authority is satisfied that when one or more licensed distributors is unable, due to bankruptcy or receivership, to fulfill the financial obligation to producers and/or cooperative associations of producers for base deliveries, the approving authority

may authorize the establishment of a temporary producer redistribution fund to reallocate a distributor's deficient financial obligation.

1. When it is determined that an obligation for base milk deliveries cannot be satisfied, the distributor(s), producer(s) or cooperative associations of producers involved shall notify the approving authority within five working days of a voluntary filing or adjudication of bankruptcy or receivership, or within five working days of August 1, 1991, for licensed distributors currently in bankruptcy or receivership. This notification shall be in writing accompanied by copies of pertinent court documents.
2. The producer funded redistribution of losses of an unfulfilled obligation of base deliveries shall be limited to an amount not to exceed the unsecured value of base deliveries calculated in accordance with this chapter.
3. A producer funded redistribution rate shall be established which will be the lesser of the actual dollar loss under subdivision 2 of this subsection or the dollars generated by a rate not in excess of .10/cwt., levied on producer's and/or cooperative associations of producers monthly Class I allocated base deliveries for a period not to exceed 12 months for each bankruptcy. Each distributor shall remit to the agency no later than the 15th of each month the amount collected in accordance with this subdivision, applicable to the prior months delivery period at the rate established by the approving authority.
4. The agency shall disburse all redistribution funds, net of applicable bank charges, collected each month for the redistribution fund by the last day of the month. Funds will be disbursed prorata in relationship to the loss incurred by producers and/or cooperative associations of producers, less applicable bank charges.
5. Producers or cooperative associations of producers shall assign to the agency that portion of their loss claim which pertains to the value of redistributed funds paid on Virginia base deliveries by the agency in order to participate in the producer redistribution fund.
6. Any overpayment or recovery of loss claims assigned to the agency by producers or cooperative associations of producers to the producer redistribution fund shall be disbursed to producers or cooperative associations of producers on a prorata basis of payments made to the fund.

I certify that this regulation is full, true, and correctly dated.

Rodney L. Phillips, Administrator  
State Milk Commission

Date: \_\_\_\_\_